

Andorra

Fifth Round Mutual Evaluation Report Executive Summary

1. This report provides a summary of the anti-money laundering (AML) and countering the financing of terrorism (CFT) measures in place in the Principality of Andorra (Andorra) as at the date of the on-site visit (between 6 and 18 March 2017). It analyses the level of compliance with the Financial Action Task Force (FATF) 40 Recommendations and the level of effectiveness of Andorra's AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

- Andorra adopted its national risk assessment (NRA) and action plans for addressing the risks in December 2016. It is a candid assessment, and, taking into account that it is its first wholesale exercise to consider the money laundering (ML) and financing of terrorism (TF) risks it faces, it is reasonably comprehensive. Where there are shortcomings, it is in relation to the activities of foreign subsidiaries of Andorran banks.
- It is evident that there has been the political commitment to make sweeping changes to Andorran legislation. It was not clear though what political oversight will apply in relation to monitoring implementation of key aspects of the action plans. Despite this, legislation to criminalise tax crimes and revise the Law on international cooperation in criminal matters and the fight against money laundering and the financing of terrorism 20 December 2000, as amended (AML/CFT Act), all part of action plans, was already well advanced at the time of the on-site visit.
- The authorities systematically use financial intelligence and other information provided by the *Unitat d'Intelligència Financera d'Andorra* (the UIFAND) in developing investigations of ML cases. The good ratio of suspicious activity report (SARs) submitted against the number of investigations initiated based on them supports law enforcement authorities' (LEA) view that the UIFAND's analyses/disclosures are of a high quality.
- Cooperation and communication between the UIFAND and LEAs seems to be intensive and fruitful. It, inter alia, includes face-to-face meetings which enable the interlocutors to discuss all aspects of the case(s) and to preserve the confidentiality of information.
- Andorra has a small law enforcement and magistrates' community, which has facilitated good cooperation and coordination, effective investigation and prosecution of complex cases. These cases have generated uniform ML case law and reflect high professional standards. Currently, the criminal justice system investigates and prosecutes a wide range of ML cases which are consistent with the country's threats and risk profile. Nevertheless, the ratio between

investigations/prosecutions initiated and subsequent convictions obtained appears to be modest.

- The ML threats that the country faces, the current workload judiciary and law enforcement are exposed to, the complexity of cases, certain shortcomings in the legal framework, and court proceedings that appear to be exceptionally long are key concerns which call for further reforms by the authorities.
- Imprisonment sanctions imposed by the courts on natural persons are proportionate and dissuasive and are cumulated with fines which can amount up to 3 times the value of the laundered funds.
- The authorities seem to apply a reasonably proactive approach in pursuing the confiscation of assets. This means that assets obtained or laundered are pursued even in cases when the dual criminality principle could prevent that.
- Searching for criminally obtained property is quite a complex process. Although parallel financial investigations are systematically carried out, a lack of human resources and limited access to databases by some LEAs cast doubt on effectiveness in identifying proceeds.
- Cash smuggling has been identified as a vulnerability in the NRA. Nonetheless, the cross-border identification and seizure of cash does not seem to be sufficiently prioritised by *Duana d'Andorra* (Customs Department).
- Andorra has enacted a robust legal framework for criminalising TF, which is largely in line with international standards.
- The absence of prosecutions and convictions for TF appears to be broadly in line with the risk-profile of the country.
- The authorities have conducted a detailed analysis of wire transfers with other jurisdictions, including high-risk countries, within the framework of the NRA. However, the possibility to monitor wire transfers data to and from high-risk jurisdictions from the TF perspective has not been fully explored by the UIFAND prior to the NRA.
- The framework for targeted financial sanctions (TFS) seems complete, and capable of applying sanctions promptly. Nevertheless, the possibility of recognising TFS lists of the European Union (EU) and neighbouring countries (Spain and France) has not been considered by Andorra, despite close political, economic and social ties.
- A limited regulatory regime for registration and supervision of non-profit organisations (NPOs) does not fully target, and does not seem to be proportionate to, the risk of abuse of NPOs for TF purposes.
- There is a system in place to freeze property and assets of persons identified under United Nations Security Council Resolutions (UNSCR) lists for financing of proliferation of weapons of mass destruction (PF). However, Andorra is not taking sufficient steps to address all the issues surrounding proliferation.
- Large financial institutions (FIs) assess and broadly understand their ML/TF risks, but it seems that they may be down-played to some extent. Smaller FIs and designated non-financial businesses and professions (DNFBPs) appeared less clear about risks, but operate straightforward business models for a limited number of customers. Most FIs and DNFBPs classify their clients into risk categories in order to apply appropriate customer due diligence (CDD) measures. However, some of the methodologies followed for classifying risk are not yet fully adapted to the specificities of their customers and their activities. FIs and DNFBPs generally

demonstrated a strong commitment to applying AML/CFT obligations.

- There are some technical deficiencies in the licensing and registration controls to prevent criminals and their associates from holding positions of control or management in FIs and DNFBPs. Except for banks, those holding senior compliance roles are not vetted by supervisors.
- Taking into account the size of the UIFAND's supervisory unit during the period under review, the UIFAND is to be commended on what it has achieved since the last evaluation. Nevertheless, the limited resources available to the UIFAND have hampered supervision and there is significant key-man risk present. The UIFAND had to curtail a large part of its inspection programme in 2015 and 2016 to deal with a bank failure and the NRA. Risk-based supervision is not fully applied to FIs and DNFBPs.
- There is a need for better strategic engagement and coordination of activities between the supervisory authorities. Whereas the UIFAND relies extensively upon the cooperation of the *Institut Nacional Andorrà de Finances* (the INAF) with foreign regulators in order to exercise consolidated supervision of the significant overseas activities of subsidiaries, it does not seem that there is adequate engagement on AML/CFT matters between the prudential supervisor and its counterparts abroad.
- The NRA includes quite a comprehensive assessment of ML risks involved in the use of shell companies created in Andorra. It also considers TF risks presented by foundations and associations (NPOs). It does not consider how companies may be used more generally for TF. The past and current involvement of banks, lawyers, accountants and *gestorias* in the formation of legal persons, and possibility that some professional trustees resident in Andorra are administering foreign legal arrangements have not been considered sufficiently.
- Measures are in place to prevent misuse of Andorran companies. A combination of: (i) controls exercised over foreign investment by the Ministry of Tourism and Commerce; (ii) use of notaries (which are subject to AML/CFT Act); and (iii) requirement for companies with foreign ownership to hold a bank account (nearly always in Andorra) are the key elements of a comprehensive process for mitigating the risk of misuse.
- Gestorias are commonly used to incorporate companies in Andorra. Whilst they are subject to the AML/CFT Act, supervision of this sector is insufficient.
- International cooperation constitutes a significant part of the Andorran AML/CFT system, given that most of the predicate crimes to ML are committed abroad. Andorra proactively seeks legal assistance from foreign authorities. All competent authorities demonstrated a very good level of direct communication with their counterparts. However, the use of diplomatic channels with countries with which Andorra does not cooperate frequently sometimes takes a slower course.
- Although being a formal reason for which mutual legal assistance (MLA) requests can be refused, the dual criminality requirement in cases of tax crimes is strictly applied only if no link with another predicate offence can be identified.

Risks and General Situation

1. Andorra has a low level of domestic crime. Its main ML threat originates from foreign criminals who use the Andorran financial system to launder proceeds from foreign predicate crimes. The NRA identifies that tax evasion, fraud, corruption, drug trafficking and tobacco smuggling pose a threat to Andorra. Many predicate offences are committed in Spain and France, and Andorra cooperates closely with these countries. Tobacco smuggling is the only domestic threat rated as high.

2. Andorra's position as a regional financial centre, with an increasingly international dimension, presents a potential for illicit funds to enter the Andorran economic system, particularly as part of the layering process. Tax evasion was not a predicate crime to ML at the time of the on-site visit and this increases Andorra's vulnerability to ML. As a finance centre, it could also be used to collect funds and then to transfer them to foreign countries in order to use them for terrorist purposes.

3. The banking sector offers a broad range of services, including private banking, to a significant pool of non-residents. It is involved in more than 80% of ML cases and has had greatest exposure to the proceeds of tax crime. Whilst the failure of a bank during the period under review is considered by the authorities to be an isolated case, it serves to highlight the threats and vulnerabilities to which banks are exposed.

Overall Level of Effectiveness and Technical Compliance

4. Andorra was rated "partially compliant" with five core Recommendations in the 4th Round mutual evaluation report (MER). It has taken a number of steps to enhance compliance with the requirements set under former Recommendation (R.) 1 and former Special Recommendation (SR.) II: (i) the physical elements of ML have been brought more into line with the United Nations (UN) Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and the UN Convention Against Transnational Organised Crime (Palermo Convention), and most predicate offences are now covered; (ii) provisions of Law 9/2005 of 21 February of the Penal Code, as amended (CC) now apply most of the requirements of the International Convention for Suppression of the Financing of Terrorism (TF Convention); and (iii) steps have been taken to enhance the institutional capacities of the judiciary, e.g. an investigative section has been established within the Justice Administration to deal with economic crimes. However, criminal liability for legal persons has still not been introduced. The authorities have also addressed many of the deficiencies identified under former R.5 (CDD measures) and former R.13 and former SR.IV (reporting).

5. Andorra was rated "non-compliant" or "partially compliant" with four key Recommendations in the 4th Round MER. Steps have been taken by the authorities to address deficiencies under former R.23. In particular: (i) a supervisory unit has been established in the UIFAND; and (ii) natural and legal persons engaged in insurance activities are now subject to fit and proper requirements. Concerning former R.35 and SR.I, whilst amendments to the CC have addressed a number of technical deficiencies, a number of shortcomings remain with regard to implementation of the Vienna and Palermo Conventions. Andorra has introduced a framework to implement UNSCRs 1267(1999) and 1373(2001) – as required by SR.III.

6. In terms of effectiveness, Andorra achieves substantial results with respect to four of the Immediate Outcomes (IO) and moderate results with respect to seven IOs.

7. Changes to legislation have been made since the on-site visit. However, these could not be taken into account in this MER for procedural reasons¹. These are: (i) further amendments to the CC which makes tax evasion punishable by a fine and term of imprisonment of between three months and five years - adopted by the Andorran parliament on 13 July 2017²; (ii) further amendments to the AML/CFT Act, transposing Directive (EU) 2015/849 on the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of

¹ These legislative amendments are not referred to elsewhere in this MER, which considers legislation in place at the time of the on-site visit.

² Articles concerning tax crimes apply to these crimes committed (i) from the date of entry into force of the amendments (July 2017) - for taxes without taxable period; and (ii) from 1 January 2018, for taxes with taxable period.

money laundering or terrorist financing, and Regulation 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds - adopted on 22 June 2017 and now in force; and (iii) new insurance legislation - adopted on 22 June 2017 and now in force but applicable from 1 January 2018.

Assessment of Risks, coordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33)

8. Andorra adopted its NRA and action plans for addressing risks in December 2016. It is a candid and reasonably comprehensive assessment of the ML and TF threats and vulnerabilities in Andorra. Nevertheless, certain shortcomings were noted in relation to the assessment of risk in the activities of foreign subsidiaries of Andorran banks. The NRA identifies the lack of a clear AML/CFT Strategy, though this had not hindered the implementation of priority actions identified in the NRA.

9. It is evident that there has been political commitment to make sweeping changes to Andorran legislation. It is not clear though what political oversight will apply in relation to monitoring implementation of key aspects of the NRA action plans.

10. The objectives and activities of the UIFAND's operational unit and LEAs appear to be fully consistent with the NRA and action plans. However, strategic co-operation and co-ordination of supervisory activities need to be improved.

11. Two permanent committees have been established to co-ordinate AML/CFT work: (i) the Permanent committee on the Prevention of ML/TF (PC1); and (ii) the Permanent committee for the prevention and fight against terrorism and its financing and the proliferation of weapons of mass destruction and its financing (PC2). In practice, they act as discussion fora and their role is limited to the revision of legislation in line with international standards. However, work on the NRA and in resolving the failure of a bank provide recent evidence that there is cooperation and coordination at policy level.

Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)

12. The authorities systematically use financial intelligence which LEAs consider to be of a high quality. Cooperation and communication between the UIFAND and LEAs features different forms and aims at producing good results. The modest number of suspicious activity report (SARs) submitted by FIs and DNFBBs appears to be a result of intensive and direct informal communication between them and UIFAND before a SAR is submitted. The authorities deem that such practice has contributed to the quality of SARs and also reduced their numbers. So far, two SARs concerning TF have been submitted.

13. The UIFAND has access to a wide range of databases. LEAs consider that the quality of intelligence and the analysis provided by the UIFAND is high.

14. Although being well structured, the UIFAND is exposed to vulnerabilities that usually characterise units of its size. Law 10/2012 of 21 June on foreign investment in the Principality of Andorra (Foreign Investment Act) imposing the UIFAND the obligation to check and approve each new foreign application to invest in Andorra, seriously impacts the operational unit's workload. Nonetheless, the operational analyses carried out upon receipt of the SARs are always prioritised against the checks of the foreign applications to invest in Andorra.

15. Andorra has a small law enforcement and magistrates' community, which has facilitated good cooperation and coordination, effective investigation and prosecution of complex cases. These cases have generated uniform ML case law and reflect high professional standards. Recent reforms – most

notably amendments to the ML offence and appointment of the specialised investigative judges to deal exclusively with serious economic crimes - have had a positive effect.

16. Currently, the criminal justice system investigates and prosecutes a wide range of ML cases which are consistent with the country's threats and risk profile. Nevertheless, the ratio between investigations/prosecutions initiated and subsequent convictions obtained appears to be modest.

17. The ML threats that the country faces, the current workload, complexity of cases, lack of human resources, limitations imposed by non-incrimination of certain FATF-listed predicate offences, and the court proceedings that appear to be exceptionally long, call for further strengthening of the institutional and legal framework.

18. Terms of imprisonment imposed by the courts are proportionate and dissuasive. However, Andorra does not have criminal liability for legal persons and, to date, existing alternative measures have only been applied once.

19. Prosecutors and police may obtain financial information in the framework of a criminal investigation, with the prior approval of an investigative judge. This legal condition is not an obstacle per se, but could trigger the obligation to notify the suspect about the investigation and the content of the file, which could seriously impede the investigation.

20. The ML offence combined approach³ triggers supplementary requirements in establishing the foreign predicate offence, which is challenging for the judiciary in stand-alone ML. Certain FATF-listed predicate offences not criminalised in Andorra (primarily tax crimes) were usually being reported by the foreign authorities as the predicate offence.

21. Legislative and institutional reforms carried out in recent years have had a positive impact on the effectiveness of the country's confiscation regime. The authorities seem to apply a reasonably proactive approach in pursuing confiscation of assets, even in cases when the dual criminality principle could prevent that. However, a lack of resources and restricted access to databases cast doubt on the effectiveness of LEAs in identifying proceeds. The lack of comprehensive aggregated statistics from the different judicial authorities and LEAs also hampers the authorities' ability to assess the degree to which the country's confiscation objectives are achieved.

22. Cash smuggling has been identified as vulnerability in the NRA. Nonetheless, the cross-border identification and seizure of cash does not seem to be prioritised by the Customs Department.

23. Andorra does not have comprehensive asset-sharing mechanisms with other countries, apart from the United States (US). Given the country's risk profile, this might negatively influence co-operation from other jurisdictions in seizing and confiscating the proceeds of crime.

Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9-11; R.5-8)

24. Andorra has enacted a robust legal framework for criminalising TF, which is largely in line with international standards, and has conducted a candid national TF risk assessment. The authorities have not prosecuted any type of TF activity in the period under review. One investigation indirectly related to terrorism has been carried out by the authorities and there is one ongoing investigation of TF suspicion. The absence of prosecutions and convictions for TF appears to be broadly in line with the risk-profile of the country.

³ A specific list of predicate offences in conjunction with a threshold of a minimum of 6 months of imprisonment as a sanction.

25. Being geographically located between France and Spain, Andorra naturally relies on close cooperation with these countries for combatting terrorism and TF. Excellent relations and information exchange exist with relevant counterparts in Spain, France and Italy.

26. Concerning foreign TF risk, LEAs appear to have a good understanding of the threat of recruitment, radicalisation and self-radicalisation of individuals. No evidence has been found to date suggesting that Andorran residents have travelled to conflict zones abroad to help foreign terrorist groups. The NRA and on-site interviews have confirmed that LEAs make efforts (especially at the intelligence level) to identify the sources of funds that can potentially be used for the purpose of TF, such as tobacco smuggling. The authorities have conducted a detailed analysis of wire transfers with other jurisdictions, including high-risk countries, within the framework of the NRA. However, the possibility to monitor wire transfers data to and from high-risk jurisdictions from the TF perspective has not been fully explored by the UIFAND prior to the NRA.

27. The framework for TFS under UNSCRs 1267/1989 and 1988, and pursuant to UNSCR 1373 seems complete, and capable of applying sanctions promptly. Listing in Andorra is automatic following the UN designation and without delay. However, the assessment team could not assess the effectiveness in designating foreign or domestic terrorists since no formal request for designation pursuant to UNSCR 1373 has ever been submitted to/by the competent authorities. The evaluation team believes that Andorra could have considered the possibility of recognising terrorists and terrorist organisations designated by the EU and neighbouring countries, given the close relationship that Andorra has with those jurisdictions and risk of terrorism and TF that is found there. In practical terms, this would mean that any EU, Spanish or French designations (once in force in those jurisdictions) could have direct effect in Andorra.

28. A limited regulatory regime for the registration and supervision of NPOs is in place that does not fully target and does not seem to be proportionate to the risk of abuse of NPOs for TF purposes. Besides some financial accounting requirements, NPOs are not supervised or monitored by the authorities. NPOs met on-site had not been trained by the authorities on possible misuse of the NPO sector for TF purposes, and, as a result, there was a lack of awareness on TF risks even by NPOs operating close to conflict areas.

29. Andorra has a complete framework for TFS pursuant to UNSCRs 1718, 1737 and their successor resolutions. No PF-related assets or funds have been frozen so far. PC2 coordinates activities and provides a platform for cooperation amongst the relevant authorities on, inter alia, PF issues. However, insufficient evidence has been provided by the authorities to demonstrate: (i) a satisfactory level of coordination and cooperation in relation to PF matters; and (ii) that Andorra has robust export controls over proliferation-sensitive goods and technologies. Accordingly, it remains unclear if the authorities have an adequate understanding of PF risks.

Preventive Measures (Chapter 5 - IO4; R.9-23)

30. FIs and DNFBPs have explained that they have a low risk tolerance, in part as a result of action taken by the authorities in respect of a banking failure. Notwithstanding this, use of cash in the financial sector continues to be quite extensive and action against tax evasion (not a criminal offence at the time of the on-site visit) has been taken quite recently.

31. Large FIs assess and broadly understand their ML/TF risks, but it seems that they may be played down to some extent. Smaller FIs and DNFBPs appeared less clear about risks, but operate straightforward business models for a limited number of customers.

32. Most FIs and DNFBPs classify their clients into risk categories in order to apply appropriate CDD measures. However, some of the methodologies followed for classifying risk are not yet fully

adapted to the specificities of their customers or their activities. There is quite a large variation amongst banks in the percentage of customers considered to present a higher risk.

33. FIs and DNFBPs generally demonstrated a strong commitment to applying AML/CFT obligations and a number of factors have encouraged most to strengthen their AML/CFT policies and procedures. Not all parts of the DNFBP sector appear aware of their AML/CFT responsibilities.

34. The extent to which CDD held for existing customers has been remediated is variable. Nevertheless, FIs and DNFBPs had measures in place to “regularise” their client base ahead of the criminalisation of tax evasion and to accommodate new tax reporting requirements. One bank reported losing a significant proportion of its client base as a result of tax regularisation.

35. There is some evidence of under-reporting of suspicious activity. In cases where accounts were terminated under tax regularisation programmes, it appears that few SARs were submitted. The NRA notes that some have involved third parties in analysing and deciding whether SARs should be submitted.

36. Banks have expanded into foreign markets. They appear to understand the risks inherent in such “internationalisation” and have developed quite comprehensive group-wide programmes against ML/TF risk.

Supervision (Chapter 6 - IO3; R.26-28, R. 34-35)

37. Taking into account the size of the UIFAND’s supervisory unit during the period under review, it is to be commended on what it has achieved since the last evaluation. Nevertheless, the limited resources available to the UIFAND have hampered supervision and there is significant key-man risk present. The UIFAND had to curtail a large part of its inspection programme in 2015 and 2016 to deal with a bank failure and the NRA.

38. There are some technical deficiencies in the licensing and registration controls to prevent criminals and their associates from holding positions of control or management in FIs and DNFBPs. Except for banks, those holding senior compliance roles are not vetted by supervisors.

39. Risk-based supervision is not fully applied to FIs and DNFBPs by the UIFAND. AML/CFT supervision is largely focused on checking: (i) that policies and procedures are in place; and (ii) CDD applied, rather than on an assessment of the effectiveness of the governance and business models. The UIFAND’s off-site supervision of FIs is more effective and based on reviews by external auditors of FIs’ level of compliance with the AML/CFT Act. The scope of this work is set by the UIFAND.

40. There is a need for better strategic engagement and coordination of activities between the supervisory authorities to: (i) leverage off the overlap between prudential and AML/CFT supervision in relation to governance and internal controls; and (ii) share expertise, knowledge, experience and information. Whereas the UIFAND relies extensively upon the INAF’s cooperation with foreign regulators in order to exercise consolidated supervision of the significant foreign activities of subsidiaries, it does not seem that there is adequate engagement on AML/CFT matters between the prudential supervisor and its counterparts abroad.

41. There is limited supervisory engagement by the UIFAND with the DNFBP sector, including the on-going collection of data for off-site analysis.

42. It is clear that action being taken in respect of major ML cases has been dissuasive of non-compliance with AML/CFT requirements. Except for withdrawal or modification of an authorisation, it is the Government rather than the UIFAND which determines the sanctions to be imposed for serious and very serious breaches of the AML/CFT Act, based on proposals made by the UIFAND.

Transparency of Legal Persons and Arrangements (Chapter 7 - IO5; R. 24-25)

43. The NRA includes quite a comprehensive assessment of ML risks involved in the use of shell companies created in Andorra. It also considers TF risks presented by NPOs (foundations and associations). It does not consider how companies may be used more generally for TF. The past and current involvement of banks, lawyers, accountants and *gestorias* in the formation of legal persons, and possibility that some professional trustees resident in Andorra are administering foreign legal arrangements have not been considered sufficiently.

44. Measures are in place to prevent misuse of Andorran companies. A combination of: (i) controls exercised over foreign investment by the Ministry of Tourism and Commerce; (ii) use of notaries (which are subject to the AML/CFT Act) when there is a change in ownership; and (iii) requirement for a company with foreign ownership to hold a bank account (nearly always in Andorra) are the key elements of a comprehensive process for mitigating the risk of misuse. However, it is noted that: (i) controls over foreign investment may not identify all “controllers”; (ii) changes in ownership may be kept private for some time (though they are not enforceable against third parties until notarised) and there has been limited supervision so far of compliance by notaries with AML/CFT requirements; and (iii) there have been cases when banks have failed to apply CDD requirements in accordance with the AML/CFT Act.

45. The application of the Foreign Investment Act to collective investment schemes is very limited. Instead, such schemes must be authorised by the INAF and distributed and managed by an Andorran FI subject to the AML/CFT Act. Significant assets are held in such investment schemes.

46. Relaxation of controls over foreign investment appears to have eradicated the historical use of “name-lenders” – Andorran nationals fronting the ownership and control of companies by foreigners. *Gestorias* are commonly used to incorporate companies in Andorra. Whilst they are subject to the AML/CFT Act, supervision of this sector is insufficient.

47. Sanctions have not been applied for failing to provide information to the Companies Registry or historical use of nominee companies.

International Cooperation (Chapter 8 - IO2; R. 36-40)

48. International cooperation constitutes a significant part of the Andorran AML/CFT system, considering that most of the predicate crimes to ML are committed abroad. Andorra has a sufficiently comprehensive legal system for conducting formal international cooperation.

49. Given that most of the predicate offences to ML are committed abroad, Andorra proactively seeks legal assistance from foreign authorities. All competent authorities, including the judicial authorities and the LEAs, demonstrated a very good level of direct communication with their counterparts in Spain and France predominantly, but also Portugal, the US and some countries in Latin America, which is consistent with Andorra’s ML/TF risk profile. The use of diplomatic channels with countries with which Andorra does not cooperate frequently sometimes takes a slower course.

50. The establishment of specialised investigative sections in the Courts has contributed to the prioritisation of ML cases and ML-related international cooperation.

51. Although being a formal reason for which MLA requests can be refused, the dual criminality requirement in cases of tax crimes is strictly applied only if no link with another predicate offence can be identified.

52. When a judge receives an MLA request with regards to a particular individual, that individual can ask for detailed information to be provided to them about the case where they become aware of

the request. Even though it is possible to delay responding to the individual for 6 months in the case of serious offences, this can impair cooperation in so much that undercover investigations being conducted in other countries could be jeopardised.

Priority Actions

53. The prioritised recommended actions for Andorra, based on these findings, are:

- As identified in the NRA, the authorities should develop and implement an AML/CFT strategy and policy based on the high level objectives set in the NRA. This strategy should be approved by the Government.
- The role and powers of the country's coordinating committee (PC1) should be enhanced to enable it to drive the structural changes that the action plans propose. The authorities should take action to strengthen cooperation and coordination within PC2.
- The Government should assess the resourcing needs of each agency arising from implementation of the national and sectoral action plans, e.g. staffing and information technology (IT), ensure that each is adequately resourced for their role, and hold PC1 accountable for delivery of the various plans.
- Human and IT resources of the operational unit of the UIFAND should be reviewed taking into account the amount of work it is currently assigned. Access to the cadastral and tax databases should be granted to the UIFAND.
- The UIFAND should strengthen its case study analysis on the basis of a summary of cases prepared for NRA purposes. Typologies of the most common ML trends should be prepared and subsequently discussed by PC1 and with the private sector.
- Andorra should significantly reinforce human and technical resources (IT tools) of relevant authorities involved in ML investigations, especially the Police Department and specialised investigative judges (*Batllia d'Andorra*), in order to effectively combat complex stand-alone ML schemes.
- Andorra should criminalise: (i) tax evasion in a manner that covers all the elements related to direct and indirect tax crimes; (ii) bribery in private sector; and (iii) smuggling of goods other than tobacco, and make them a predicate offences for ML.
- Andorran authorities should consider, in line with the European Convention on Human Rights (ECHR) obligations, what further measures should be taken to simplify the appellate procedure or to otherwise significantly expedite the timely conclusion of criminal proceedings.
- The authorities should keep comprehensive statistics, including: (i) data on the amount of property seized and confiscated; (ii) type of confiscation; and (iii) breakdown of figures by predicate offence.
- The authorities should make legislative steps to increase of the secrecy measure beyond 6 months period and thus minimise the threats originating from the current, overly broad, regulations to notify the suspect(s) of the proceedings against them and provide them access to the criminal files.
- The authorities should strengthen the mechanism for cross-border control of cash and adequately apply measures provided in the national action plan.
- Regular, or at least periodic, assessments of aggregated wire transfers with countries having a high-risk of terrorist activities to detect any potential TF suspicion should be continued by the

UIFAND.

- In light of the close economic and political ties with neighbouring jurisdictions, the authorities should consider recognising lists of terrorists and terrorist organisations designated in particular by the EU, France and Spain.
- Andorra should conduct proper and comprehensive periodical monitoring of all NPOs operating in the jurisdiction to identify those NPOs at risk from terrorist abuse and conduct outreach and exercise oversight of those identified as presenting a risk.
- Training on possible misuse of the NPO sector for TF purposes should be provided to the entire NPO sector as a matter of priority.
- The work of PC2 should be enhanced through: (i) more active participation of the Police Department; and (ii) ensuring that its agenda routinely covers TFS issues, including the ways in which TF and PF sanctions could be evaded.
- Authorities with competences for countering PF (CPF), as well as FIs and DNFBPs, should be trained on the risks of PF in order to develop capacity in this area.
- FIs and DNFBPs should be required to: (i) identify, assess and document ML/TF risks inherent in their own activities through a periodic and formal business risk assessment; and (ii) to share that assessment with the UIFAND from time to time.
- The UIFAND should issue high level guidance on: (i) the types of criteria to be taken into account by FIs, corporate service providers (CSPs) and other DNFBPs when determining customer risk profiles, in order to encourage more bespoke and tailored assessments of risk; and (ii) risk classification groupings, in order to encourage a more graduated application of CDD measures
- There should be consistent market entry and on-going “fit and proper” controls for DNFBPs and “fit and proper” checks for senior compliance officers. Supervisors should complete their retrospective application of “fit and proper” controls to FIs.
- The UIFAND should develop and implement a comprehensive risk-based approach to on-site and off-site supervision of FIs and DNFBPs which is sufficiently resourced and more focussed on governance and business models. This should reflect: (i) findings from the NRA; (ii) data collected in business risk assessments and annual returns; and (iii) information held by other supervisors.
- There should be greater coordination of supervision amongst supervisors in order to: (i) pool the expertise and knowledge that is held in the different supervisors; and (ii) promote consolidated AML/CFT supervision of group activities conducted abroad.
- ML/TF risks present in the formation and administration of companies by lawyers, *gestorias* and other CSPs should be assessed and addressed.
- Andorra should consider, as a matter of priority, signing and ratifying: (i) the UN Convention against Corruption (UNCAC); and (ii) Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism in order to enhance its mechanism for international cooperation (CETS 198).
- In line with the FATF methodology Andorra should not make dual criminality a condition in rendering MLA at least for requests which do not involve coercive actions.
- Additional resources should be allocated to international cooperation in judicial authorities and LEAs in order to eliminate undue delays. The case management system should be improved in judicial authorities and LEAs to promote the timely management and execution of all MLA

requests.

Effectiveness and Technical Compliance Ratings

Effectiveness Ratings

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
Sub.	Sub.	Mod.	Mod.	Mod.	Sub.	Mod.	Mod.	Sub.	Mod.	Mod.

Technical Compliance Ratings

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
LC	PC	PC	C	LC	LC	C	PC	LC	LC

R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
LC	PC	LC	LC	PC	PC	LC	LC	C	LC

R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
LC	PC	PC	LC	PC	PC	LC	PC	LC	C

R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
PC	PC	LC	PC	LC	PC	LC	LC	LC	LC

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